

## DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR  
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February 23, 2000

Don Maurer  
Parsons Constructors, Inc.  
3211 Fifth Avenue  
San Diego, CA 92103-5718

RE: Public Works Case No. 99-070  
Olivenhain Dam Project Soil Drilling and Testing  
San Diego Water Authority

Dear Mr. Maurer:

This constitutes the determination of the Director of the Department of Industrial Relations regarding coverage of the above-referenced project under California's prevailing wage laws and is made pursuant to Title 8, California Code of Regulations (CCR), section 16000(a). Based upon my review of the facts of this case and an analysis of the applicable law, it is my determination that the work being done by Tri-County Drilling, Inc. ("Tri-County") on the Olivenhain Dam Project ("Project") is a public work subject to the payment of prevailing wages.

The San Diego County Water Authority ("Water Authority") is funding construction of the Olivenhain Dam as part of its Emergency Storage Project. The Water Authority contracted with Parsons Constructors, Inc. to serve as project manager for the job. Prior to requesting bids for construction, the Water Authority contracted with Parsons-Harza to design the dam.

As part of the geotechnical and geological investigations for the design phase of the Project, Parsons-Harza sub-contracted with Tri-County to drill and test soil core samples in 3,775 linear feet of core. There are two phases to Tri-County's work.

For the Phase I investigation, two drill rigs are required to continuously core through hard to very hard bedrock. A third drill rig will be required part-time. Sixteen borings are planned for the Phase I investigation. Eight of the borings will be vertical with a range in depth from 80 to 175 feet and the other eight will be inclined up to 30 feet from vertical with a range in depth from 150 to 300 feet.

Letter to Don Maurer  
RE: Public Works Case No. 99-070  
Olivenhain Dam Project Soil Drilling and Testing  
San Diego Water Authority  
February 23, 2000  
Page 2

PVC riser pipe will be installed in each boring. The pipe will extend at least one foot into stable rock and shall extend a minimum of two feet above the ground surface. The exposed sections of the PVC pipe will be protected with a steel casing and locking cap which is firmly held in place by concrete. In addition, hydraulic packer tests are to be conducted in the cored rock.

The purpose of Phase II of the investigations is to clarify and complete the subsurface information database. It requires the drilling of four supplemental core holes and laboratory testing of the samples. The four supplemental holes will range in depth from 41 feet to 100 feet.

Labor Code section 1720(a) defines "public works" in relevant part as: "Construction, alteration, demolition or repair work done under contract and paid for in whole or part out of public funds." The Olivenhain Dam Project involves construction done under contract and paid for out of public funds. The Project is therefore a public work within the meaning of section 1720(a). In this case, the issue is whether the work being done by Tri-County on the design phase of the Project is a public work.

Under section 1720(a), "alteration" can apply to a changed condition of the surface or sub-surface of the land. Priest v. Housing Authority of the City of Oxnard (1969) 275 Cal.App.2d 751, 80 Cal.Rptr. 145.<sup>1</sup> Tri-County's work on this project, as described above, involves alteration of the land, done under contract and paid for out of public funds. Therefore, under section 1720(a) and consistent with precedential public works determinations,<sup>2</sup> Tri-County's work on this Project constitutes a public work under section 1720(a) and is subject to the payment of prevailing wage.

Labor Code section 1772 also supports the payment of prevailing wages to the employees of Tri-County on the project. That section states: "Workers employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work." Because Tri-County

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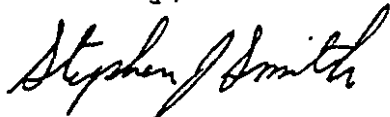
<sup>1</sup> See also 64 Ops.Cal.Atty.Gen. 234 (1981) for the definition of the term "alteration" within the meaning of Labor Code section 1720(a).

<sup>2</sup> Precedential Public Works Determination No. 93-034, SAMTRANS/BART (Colma Bart Station), November 3, 1993.

Letter to Don Maurer  
RE: Public Works Case No. 99-070  
Olivenhain Dam Project Soil Drilling and Testing  
San Diego Water Authority  
February 23, 2000  
Page 3

is a subcontractor performing work in the execution of a public work, its employees are entitled to be paid prevailing wages under section 1772.

Sincerely,

A handwritten signature in cursive script, reading "Stephen J. Smith". The signature is written in dark ink and is positioned above the printed name and title.

Stephen J. Smith  
Director